

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

United States Courts
Southern District of Texas
FILED

SEP 28 2006

Michael N. Milby, Clerk of Court

JAMES HAMILTON

VS.

MARITRANS, INC.

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§

CIVIL ACTION NO.: _____

JURY DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, JAMES HAMILTON, hereinafter referred to as Plaintiff, complaining of MARITRANS, INC. hereinafter referred to as Defendant and for cause of action would respectfully show this Honorable Court as follows:

I.

Plaintiff, James Hamilton is a resident of Orange Park, Florida.

II.

Defendant, MARITRANS, INC., is a Domestic For-Profit Corporation with offices within the Southern District of Texas and is doing business in the State of Texas. It may be served by serving its registered agent Daniel A. Ostos, 7010 Hathor Street, Corpus Christi, Texas 78412 USA.

III.

Jurisdiction in this case is founded on the Jones Act, 46 U.S.C. §688, Title 29 U.S.C. §1333 and the general maritime law.

IV.

On or about the 18th day of January 2006, Plaintiff was employed as a AB/Tankerman aboard the tug *Valour* owned and operated by the Defendant. While aboard said tug and in the course and scope of his employment, Plaintiff was involved in a marine disaster and suffered injuries as a result. Such injury occurred as a proximate result of the unsafe and unseaworthy condition of the tug and its appurtenances, which was owned, operated and maintained by the Defendant. In addition, said accident was caused in whole or in part, as a proximate result of negligence on the part of the Defendant, its agents, servants and/or employees.

V.

As a result of said incident, Plaintiff sustained injury to his person and has sustained and will sustain in the future the following damages: mental anguish; a loss of earnings; loss of earning capacity; medical, hospital and pharmaceutical expenses; loss of life's pleasures; and loss of physical capacity. By reason of the foregoing, Plaintiff would show that he is entitled to judgment in a sum in excess of the minimum jurisdictional requirements of the Court, for injuries and damages which the Plaintiff has suffered and in reasonable probability will suffer in the future.

VI.

Plaintiff respectfully demands a Jury.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendant be duly cited in terms of law to appear and answer herein, and that upon final trial hereof Plaintiff have judgment, against said Defendant for the full amount of his damages in a sum in excess of the minimum jurisdictional limits of the Court, with prejudgment and post-judgment interest

thereon at the highest legal rate, for costs of Court in this behalf expended, and for such other and further relief, special and general, at law or in equity, to which Plaintiff may show himself to be justly entitled.

Respectfully submitted,

HAROLD EISENMAN, P.C.

By: 

Harold Eisenman
State Bar No. 06503500
Federal Bar No.: 1346
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Telephone No.: (713) 840-7180
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PLAINTIFF DEMANDS A TRIAL BY JURY

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JAMES HAMILTON

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Harold Eisenman - Harold Eisenman P.C.
2000 West Loop South, Suite 1930
Houston, Texas 77027
(713) 840-7180

DEFENDANTS

MARITRANS, INC.

County of Residence of First Listed
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

United States Courts
Southern District of Texas

Attorneys (If Known)

SEP 28 2006

Michael N. Milby, Clerk of Court

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 DEF ☐ 1 Incorporated or Principal Place of Business In This State ☐ 4 DEF ☒ 4
- Citizen of Another State ☐ 2 DEF ☐ 2 Incorporated and Principal of Business In Another State ☐ 5 DEF ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 DEF ☐ 3 Foreign Nation ☐ 6 DEF ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input checked="" type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) SOCIAL SECURITY <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 FEDERAL TAX SUITS
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Jones Act, 46 U.S. C. §688, Title 29 U.S.C. §1333 and the general maritime law

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION DEMAND UNDER 23.623 of the minimum jurisdictional limits ☐ CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE 9-26-06 SIGNATURE OF ATTORNEY OF RECORD

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Fee Paid